

In re Appln. Of Timothy Charles Sowell
Application Number: 09/418,943

APPENDIX

The Pending Appealed Claims Consist of: 1-12, 14-44, 53-55 and 74-77.

1. A method for charging customers for use of software comprising the steps of:
establishing a use-based pricing scheme for a set of software modules;
distributing the set of software modules to a customer, wherein the set of software modules comprise at least one object class from which objects are instantiated on a customer system;
monitoring customer use of the software modules; and
charging the customer according to use of the distributed software modules as determined during the monitoring step, wherein software usage is measured according to object instances created from the at least one object class.
2. The method of claim 1 wherein the customer creates a number of instances from a software module, and use of the software module is measured according to instances detected at a site of the customer during the monitoring step.
3. The method of claim 2 wherein instances created from a software module are periodically accessed to determine use during the monitoring step.
4. The method of claim 3 wherein the monitoring step comprises registering each day that an instance created from a software module is active; and wherein the charging step comprises charging the customer a daily rate for use of the software module.
5. The method of claim 1 further comprising the step of providing a demonstration mode for instances such that instances in the demonstration mode are executable at a customer site without charge.
6. The method of claim 1 further comprising maintaining a single agreement governing use of instances created from the set of software modules for an enterprise.
7. The method of claim 1 further comprising the step of monitoring a termination date for instances derived from a software module having a time-limited duration.

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8. The method of claim 7 further comprising the step of issuing a warning in response to detecting an upcoming expiration date for an instance of a software module.

9. The method of claim 1 further comprising the step of maintaining an account for storing units of credit for a customer; and wherein said charging step comprises decrementing the customer's credit account by an appropriate number of units of credit based upon said monitoring step.

10. The method of claim 1 further comprising the step of generating a report summarizing use of software modules at the customer site.

11. The method of claim 1 wherein the charging step is based upon registered uses of a software module.

12. The method of claim 11 wherein the registered uses of a software module are measured according to execution of an instance created from the software module.

Claim 13 was previously deleted.

14. The method of claim 11 wherein the software module is an object class for creating an application engine object.

15. The method of claim 11 wherein the software module is an object class for creating a view engine object.

16. The method of claim 1 wherein the monitoring step comprises determining a time duration that an object instantiated from a software module is active.

17. The method of claim 1 wherein the monitoring step comprises registering execution of an instance that tracks throughput of a process.

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18. The method of claim 1 wherein individual ones of the set of software modules are individually priced.

19. The method of claim 1 wherein the set of software modules includes at least a first software module supplied by a third party vendor and further comprising the step of:
compensating a third party vendor based upon a use by a customer of the first software module determined during the monitoring step.

20. The method of claim 1 wherein the distributing step comprises transmitting the set of software modules via a network connection.

21. The method of claim 20 wherein the network connection comprises an Internet connection.

22. The method of claim 1 comprising a step of reporting usage information to a software brokerage facility.

23. The method of claim 22 wherein the reporting step includes identifying the location of an instance created from a software module.

24. The method of claim 1 comprising the step of determining that a license manager has not reported to a software brokerage facility and in response registering a communication failure at a central licensing facility.

25. The method of claim 1 wherein the monitoring step includes storing use information in summary format in a database.

26. The method of claim 1 further comprising the step of issuing a re-ordering reminder to a customer.

27. The method of claim 1 wherein the software modules relate to industrial manufacturing automation software.

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28. The method of claim 1 wherein the software modules relate to industrial manufacturing information software.

29. The method of claim 1 further comprising maintaining an agreement governing use of instances created from the set of software modules for an enterprise wherein the instances comprise both lifetime billed and use-based billed instances.

30. The method of claim 1 further comprising the step of providing configuration tools enabling a user to create customized instances from the software modules.

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31. A method for vending software in the form of software modules via electronic commerce channels comprising the steps of:

maintaining an electronic commerce site including a software module selection interface, the software module selection interface enabling a customer to request a software module for use at a customer site, wherein the software module comprises at least one object class from which objects are instantiated on a customer system;

providing a software module management framework to the customer for installation at a customer site, wherein the management framework includes components for registering use of the software module at the customer site; and

charging the customer based upon registered use of the software module, wherein software module usage is measured according to object instances created from the at least one object class.

32. The method of claim 31 wherein the use of the software module comprises executing an instance created from the software module.

33. The method of claim 31 wherein the use of the software module comprises creating an instance from the software module.

34. The method of claim 31 wherein registering use of the software module provides a measure of throughput of an industrial process.

35. The method of claim 31 wherein the module management framework supports creation of instances from software modules at the customer site having differing use modes including at least a lifetime mode and a use-based mode, and wherein said method comprises the further step of registering execution of instances operating in the use-based mode.

36. The method of claim 35 wherein the use-based mode is measured in days and wherein an instance operating in use-based mode is registered each day in which the instance is executed.

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37. A method for charging customers for use of software comprising the steps of:
providing a set of individually identifiable units of software comprising at least one
object class from which objects are instantiated on a customer system;
individually pricing ones of the set of individually identifiable units of software;
authorizing use of the executable software; and
charging a customer based upon use of selected ones of the set of individually
identifiable units of software, and wherein software usage is measured according to object
instances created from the at least one object class.

38. The method of claim 37 wherein the authorizing step comprises transmitting a
license file containing code enabling use by the customer of the executable software.

39. The method of claim 37 further comprising the step of:
integrating self-monitoring process software within the executable software; and
registering use of the executable software by the self-monitoring process.

40. The method of claim 37 wherein the executable software is industrial
automation software.

41. The method of claim 37 wherein the self-monitoring process software
comprises functions for informing the customer of a need to reorder credit to continue using
the executable software.

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42. A method for charging customers for use of software comprising the steps of:
first providing a set of software modules for software customers, wherein the set of software modules comprise at least one object class from which objects are instantiated on a customer system;

second providing a software licensing facility including a brokering facility through which software customers pay for software execution units, and wherein the brokering facility includes a set of software customer accounts; and

charging a software customer account a number of software execution value units based upon the value of software modules utilized by a customer, and wherein software module usage is measured according to object instances created from the at least one object class.

43. The method of claim 42 wherein the charging step is performed by an automated billing process.

44. The method of claim 42 comprising the further step of providing an on-line customer interface; and wherein the first providing step includes the step of providing a network interface enabling users to download software modules from a remote location.

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Claims 45-52 were previously withdrawn from consideration in view of a restriction requirement.

53. A memory containing a software module structure facilitating automated distribution of software to customers, the software module structure comprising:
a supplier identification;
a product description;
a billing definition; and
an executable program module including at least one object class from which instantiated objects are rendered.

54. The memory containing a software module structure of claim 53 wherein the billing definition includes a usage rate.

55. The memory containing a software module structure of claim 54 wherein the billing definition includes a lifetime rate.

Claims 56-73 were previously withdrawn from consideration in view of a restriction requirement.

74. The method of claim 11 wherein the registered uses of a software module are measured according to creating an object instance from the software module.

75. The method of claim 42 wherein the use of the software module comprises executing an object instance created from the software module.

76. The method of claim 42 wherein the use of the software module comprises creating an object instance from the software module.

77. The method of claim 42 wherein registering use of the software module provides a measure of throughput of an industrial process.

In re Appln. of Nyhan et al.
Application No. 09/349,650

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this **APPELLANT'S REQUEST FOR REINSTATEMENT OF THE APPEAL AND SUPPLEMENTAL APPEAL BRIEF UNDER 37 C.F.R. SECTION 1.193(b)(2)(ii)** (along with any documents referred to as being attached or enclosed) is being transmitted by facsimile to the United States Patent and Trademark Office, Attention: Examiner Nga Nguyen, Art Unit 3628, Facsimile Number (703) 872-9306, on the date indicated.

Date: December 7, 2004

Frances Sanchez
(Typed or printed name of person transmitting)

Frances Sanchez
(Signature of person transmitting)

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